

RICHARD J. HAYES, JR.

ATTORNEY AT LAW

POST OFFICE BOX 200
LINCOLNVILLE, MAINE 04849
PRACTICE LIMITED TO MATTERS BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

ORIGINAL

DOCKET FILE COPY ORIGINAL

ADMITTED IN GEORGIA
INTERNET: fcclaw@rjhayes.com

TELEPHONE (207) 236-3333
FACSIMILE (202) 478-0048

July 23, 2007

DOCKET FILE COPY ORIGINAL

Ms. Marlene Dortch, Secretary
Federal Communications Commission
The Portals
455 12th Street, SW
Washington, DC 20554

FILED/ACCEPTED

JUL 31 2007

Federal Communications Commission
Office of the Secretary

RE: Petition to Amend the FM Table of Allotments
Kihei, Hawaii
Shirk-Mays, LLC, Petitioner

Dear Ms. Dortch:

Transmitted herewith, on behalf of Shirk-Mays, LLC, through counsel, is an original and six (6) copies of a "Petition to Amend the FM Table of Allotments" (47 C.F.R. 73.202(b)).

Shirk-Mays, LLC requests Commission consideration regarding the addition of a new, local FM broadcast service at Kihei, Hawaii.

Should any questions arise concerning this matter, please contact the undersigned, directly.

Respectfully submitted,



Richard J. Hayes, Jr.,
Counsel to
Shirk-Mays, LLC

No. of Copies rec'd 0+6
List ABCDE
MB 07-42

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON DC 20554

FILED/ACCEPTED
JUL 9 1 2007
Federal Communications Commission
Office of the Secretary

IN THE MATTER OF:

AMENDMENT OF SECTION 73.202(B)
TABLE OF ALLOTMENTS
FM BROADCAST STATIONS
KIHEI, HAWAII

BC DOCKET NO:
RM NO:

TO: CHIEF, ALLOCATIONS BRANCH

PETITION FOR RULE MAKING

COMES NOW, Shirk-Mays, LLC, through counsel, and pursuant to the provisions of Section 1.401 of the Commission's Rules (47 C.F.R.1.401) requesting that the Table of Allotments in Section 73.202(b) of the Federal Communications Commission's Rules and Regulations be amended.

Shirk-Mays, LLC hereby requests that the FM Table of Allotments in Section 73.202(b) be amended to include a new, local FM broadcast service at Kihei, Hawaii on Channel 264C2. Shirk-Mays, LLC requests that the FM Table of Allotments be amended as follows:

Location	Present	Proposed
Kihei, Hawaii	298C2	298-C2, 264C2

There are compelling, public interest justifications for granting this rule making, and in support thereof, the following is shown:

1. PRELIMINARY STATEMENT

Kihei, Hawaii is located on the Island of Maui. There is an AM station licensed to Maui and a permit for a new FM station. The proposed facility would represent the second, local FM facility allotted to Kihei. Kihei has been recognized by the Commission as a community for allotment purposes.

Kihei is a census designated place. As of the census of 2000, there were 16,749 people, 6,170 households, and 3,813 families residing in the CDP. The population density was 636.5/km² (1,648.6/mi²). There were 9,170 housing units at an average density of 348.5/km² (902.6/mi²). The racial makeup of the CDP was 47.76% White, 0.74% African American, 0.48% Native American, 24.72% Asian, 7.85% Pacific Islander, 1.58% from other races, and 16.87% from two or more races. Hispanic or Latino of any race were 7.52% of the population. From 2000 to 2007, the population increased 11.1% to 18,627. Clearly, Kihei is growing at a rapid pace and the proposed facility will provide local service to a substantial population and will further the Commission's goal of diversity of expression in the marketplace.

2. EFFICIENT USE OF SPECTRUM

Such an amendment of the FM Table of Allotments would further the Commission's goal of providing a more efficient use of the FM Spectrum by providing a new local FM broadcast service at Kihei, Hawaii. The Amendment of Section 73.202(b) of the Commission's Rules to include Channel 264C2 at Kihei, Hawaii would provide coverage to a substantial area and population. Certainly, the citizens of Kihei and, additionally, those citizens in the predicted 1.0 mV/m contour of the proposed facility, would benefit from a new, local FM broadcast service. No other person or community has expressed any interest in this channel at Kihei, Hawaii.

II. ENGINEERING CONSIDERATIONS

A. Substantial Area to Receive Additional Service

Petitioner's engineering exhibit, as attached, provides an analysis of a complete search of the FM band. That study concludes that Channel 264c2 would provide city-grade coverage to Kihei, Hawaii. Channel 264C2 may be allotted, consistent with the mileage separation and city-grade service requirements of the Commission's Rules. The consideration of all factors shows that this proposal can be accommodated and that Channel 264C2 can be added to the FM Table of Allotments at Kihei, Hawaii without jeopardizing any other community or facility. No community would lose any present or potential service and a substantial area of service would be added if this proposed allocation is granted.

III. PETITIONER'S APPLICATION FOR CHANNEL 264C2

The Petitioner has prepared and filed an application for channel 264C2 as required by the Commission's Rules. That application is available for viewing through CDBS. The Petitioner/Applicant has paid the required FCC filing fee for FCC Form 301. If these proposed changes are implemented by the Commission, the Petitioner intends, pursuant to the Rules of the Commission, to participate in the auction as a bidder for channel 264C2 at Kihei, Hawaii. If the Petitioner successfully obtains the permit for channel 264C2 at Kihei, it will promptly construct the facility. Financially, the Petitioner is qualified to construct and operate the facility sought.

IV. SUMMARY

No community will lose any present or proposed service as a result of a grant of this "Petition for Rule Making" and, furthermore, a substantial new area of service will be added. As indicated above, a grant of this "Petition" will provide a much needed new, local, FM broadcast service to Kihei, Hawaii. This "Petition" would, if granted, provide for an efficient utilization of both Commission and spectrum resources.

THEREFORE, in view of the foregoing facts, Petitioner requests that the FM Table of Allotments (Section 73.202(b)) be amended to allot FM Channel 264C2 to Kihei, Hawaii

Respectfully submitted,

SHIRK-MAYS, LLC



Richard J. Hayes, Jr.
Its Attorney

Richard J. Hayes, Jr.
Attorney at Law
Post Office Box 200
Lincolnville, ME 04849

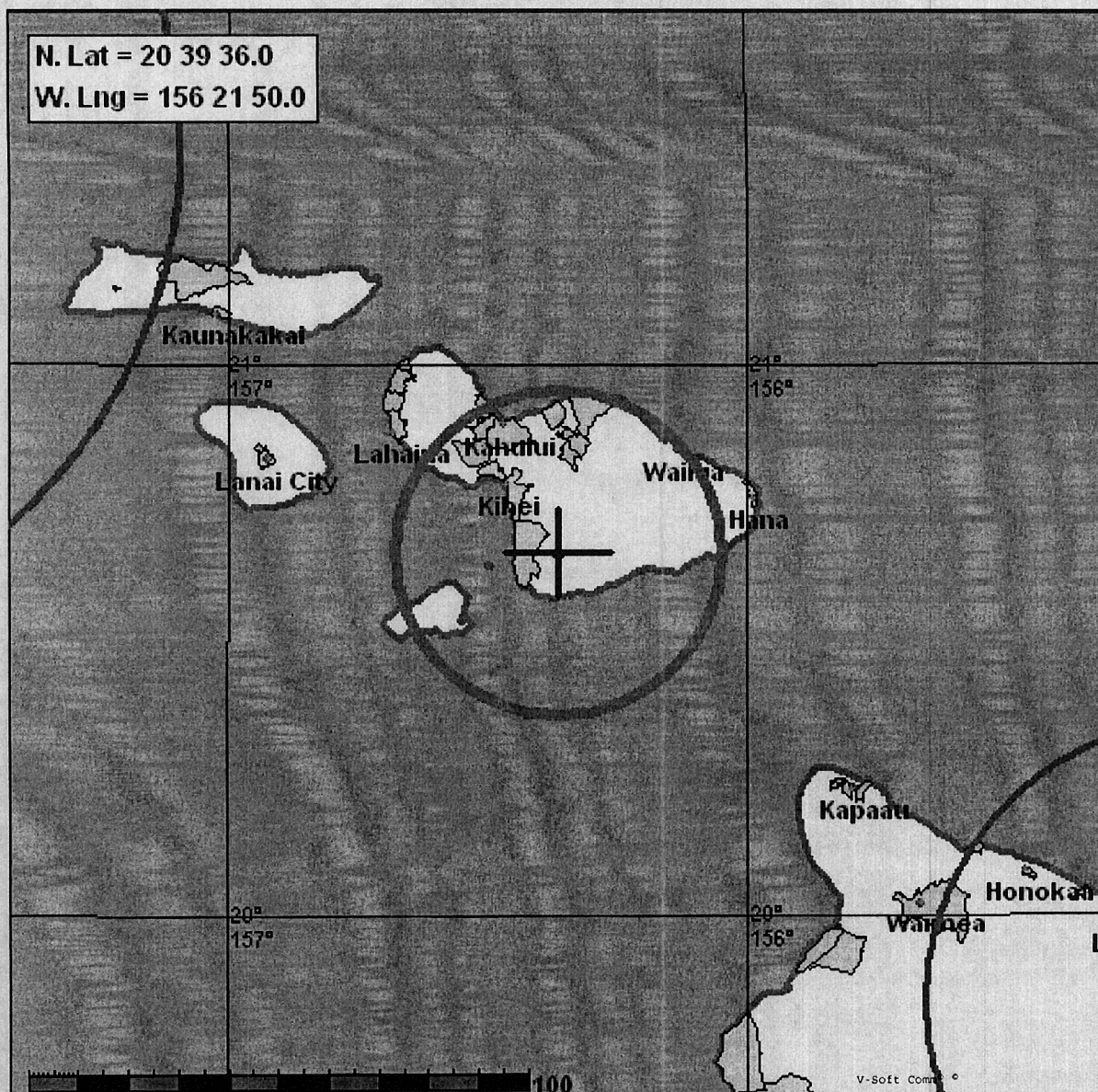
207-236-3333
foclaw@rjhayes.com

Date: July 23, 2007

CH 264 C2 100.7 MHz

Shirk-Mays, LLC

July 2007



Data Date:07-14-07				Job Date:07-19-07			
Call	CH#	Type	Location	Azi	D-KM	FCC	Margin
KORL-FM	266C	LIC-D	Waianae	HI	294.7 197.95	104.5	93.45
AL9254	266C	RSV	Waianae	HI	294.8 198.10	104.5	93.60
KCCN-FM	262C	LIC-D	Honolulu	HI	294.8 198.10	104.5	93.60
KAPA	262C2	LIC	Hilo	HI	124.7 159.30	57.5	101.80